



The HIGH ROAD

"Preserving public confidence in public servants."

No. 97-4

Hawaii State Ethics Commission

July 1997

ALOHA, COMMISSIONER LAPORTE!

Bernard LaPorte recently completed his term as a member of the State Ethics Commission. Mr. LaPorte was appointed to the Commission in 1995. In January of 1997, he was elected chairperson of the Commission.

Mr. LaPorte served the Commission with utmost dedication and countless hours of service. We will miss his commitment to ethics in government and to public service. We send our warmest aloha to Mr. LaPorte.

GOVERNOR CAYETANO APPOINTS LESLIE BAKER TO THE COMMISSION

Governor Cayetano has appointed Leslie T. E. Baker to a four-year term on the State Ethics Commission. Ms. Baker is an Assistant Vice President and Marketing Manager for American Savings Bank. She also performs volunteer work in the community for several organizations, including the Aloha United Way and the Vocational Industrial Clubs of America (Hawaii Chapter). Ms. Baker resides in Volcano, Hawaii.

SOLICITATIONS BY STATE AGENCIES: ETHICAL OR NOT?

From time to time, state agencies may seek to solicit private businesses for contributions to the agency. These solicitations frequently consist of a state agency asking a private business for assistance in funding an event, such as a state-sponsored conference. Solicitations of the private sector raise significant issues under the State Ethics Code.

The State Ethics Commission has said that a state agency may not solicit a private company for a state employee's personal benefit. For example, a state agency may not solicit a private company for door prizes or refreshments for an employee party. To do so would violate the "Fair Treatment" section of the ethics code, HRS section 84-13. This section prohibits the use of one's official position to obtain an unwarranted privilege or advantage for oneself or others.

The Commission has, however, allowed solicitations that serve a state purpose. For example, the Commission has allowed state agencies to solicit contributions for a state-sponsored conference. The Commission has repeatedly cautioned state agencies to be careful when soliciting contributions from private sources for a state purpose. Such requests may place private businesses in an awkward position: If the business does contribute, then there is sometimes suspicion by competitors or the public of favored treatment; if the business does not contribute, then it may fear unfavorable treatment by the State.

In determining whether or not a solicitation is proper, the State Ethics Commission first examines whether the solicitation appears coercive. If so, then the solicitation is prohibited by the ethics code. Factors used in making this determination include whether or not the agency does business with the solicited company, whether or not the agency has official authority over the company, and whether or not the language of the solicitation creates the impression that a contribution is required or that the agency will retaliate against a company that does not make a contribution.

ETHICS QUIZ

Question: Does the State Ethics Code prohibit state employees from collecting money from fellow state employees in a state office to purchase gifts for fellow employee birthdays, weddings, and other special occasions?

Answer: The State Ethics Code does not prohibit the collection of money from state employees who wish to make voluntary contributions to purchase gifts for employee birthdays, weddings, and other special occasions. Employees may not be pressured or coerced into making contributions, however. Since the State Ethics Code may bar a supervisor from engaging in "substantial" financial transactions with subordinates, supervisors should check with the State Ethics Commission if they plan to solicit more than minor amounts of money from subordinates. (HRS §84-13, §84-13(4))

If the Commission determines that the solicitation is not coercive, then it next determines whether the contribution is an acceptable gift to the agency. Factors used in making this determination include whether the agency does business with the solicited company, the value of the contribution, and whether the contribution actually benefits the State or, instead, personally benefits a state employee.

Solicitations can create a number of problems under the State Ethics Code. Agencies that are considering approaching private companies for contributions should first consult with the State Ethics Commission.

NEW LOBBYISTS LAW ENACTED

Governor Cayetano recently signed into law Act 264, which clarifies the State Ethics Commission's powers in administering the Lobbyists Law. The Commission testified in support of this legislation during the 1997 legislative session. Act 264 authorizes the Commission to initiate its own investigations and complaints concerning alleged violations of the Lobbyists Law; to render informal advisory opinions to alleged violators; to conduct public hearings when there is probable cause to believe that a violation of the Lobbyists Law has been committed; to determine whether or not charges that are filed with the Commission are frivolous; and to publish summaries of its decisions and opinions. The Act took effect on June 21, 1997.

COMMISSION RELEASES REPORT ON LOBBYING EXPENDITURES FOR MARCH 1 THROUGH APRIL 30, 1997

The State Ethics Commission has released its report on lobbying expenditures for the second lobbying reporting period in 1997 (March 1 to April 30, 1997). The report was based on lobbying expenditures statements filed with the Commission by organizations as required by chapter 97, HRS, the Lobbyists Law. The expenditures statements were due on June 2, 1997.

A total of 200 organizations filed lobbying expenditures statements with the Commission for the second reporting period. The organizations reported lobbying expenditures exceeding \$1,240,000 for this period.

The Commission's report lists all organizations that filed lobbying expenditures statements, the amounts reported by the organizations, and the names of registered lobbyists for the organizations. The report is available to the public. In addition, all expenditures statements that have been filed with the Commission are public records and are available for review at the Commission's office during state business hours.

The High Road is a publication of the Hawaii State Ethics Commission.

Commissioners: Leolani Abdul, Vice Chair; Leslie Baker; Kirk Cashmere; Bernice Pantell; Carl Sakata

Executive Director: Daniel Mollway

Address: P.O. Box 616
Honolulu, HI 96809

Telephone: 587-0460

Fax: 587-0470